

NOMINATION OF THOMAS A. FINK

Y 4. G 74/9: S. HRG. 104-406

Nomination of Thomas A. Fink, S.Hrg...

HEARING
BEFORE THE
COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED FOURTH CONGRESS
SECOND SESSION
ON

NOMINATION OF THOMAS A. FINK, TO BE A MEMBER OF THE FEDERAL
RETIREMENT THRIFT INVESTMENT BOARD

MARCH 11, 1996

Printed for the use of the Committee on Governmental Affairs



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ERRATA

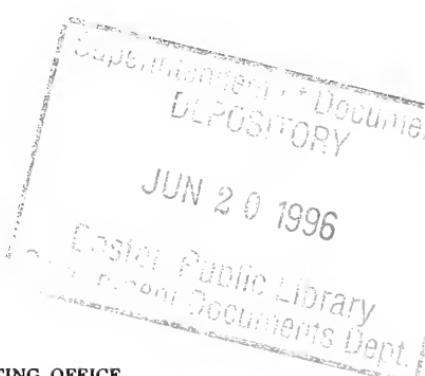
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ERRATA

NOMINATION OF THOMAS A. FINK

The above referenced hearing held before the Committee on Governmental Affairs was inadvertently printed with the designation of S. HRG. 104-406.

The correct designation is S. HRG. 104-409.

S. HRG. 104-406 was assigned to another hearing.

NOMINATION OF THOMAS A. FINK TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

MONDAY, MARCH 11, 1996

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:13 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Ted Stevens, Chairman of the Committee, presiding.

Present: Senator Stevens.

OPENING STATEMENT OF CHAIRMAN STEVENS

Chairman STEVENS. Good morning, Mr. Fink.

Mr. FINK. Good morning, Mr. Chairman.

Chairman STEVENS. Let me call the Committee to order. This morning, we will be considering the nomination of Thomas A. Fink to be a member of the Federal Employees Retirement Thrift Investment Board. I welcome you to Washington, Tom, and I know you have traveled a great distance to be here. We have been professionally and personally acquainted for at least 35 years, according to my memory.

Mr. Fink served in the Alaska State Legislature from 1967 to 1975. He is a prominent member of the Anchorage, Alaska community and served as mayor of Anchorage from 1988 until 1994. I have a particular interest in the thrift fund, having authored the legislation that created it, and my recommendation and support of you as a nominee reflects my full confidence in your ability not only with regard to honesty and integrity, but I think it will be in the best interest of Federal employees who put their savings in this fund.

You have spent your professional career providing guidance to individuals on planning for the future, through your own insurance agency. The thrift fund is a form of insurance in providing Federal employees with a sound retirement savings plan, and I am confident that Mr. Fink will draw on all of his past professional and public experience in making sound decisions to preserve and enhance the fund.

It was my privilege to recommend Mr. Fink to the White House, and I am pleased that President Clinton has nominated him for this position. The Committee rules mandate that an inquiry be conducted into the experience, qualifications, suitability and integrity to serve. The Committee has received information detailing the

nominee's qualifications, educational background, employment record and professional achievement, as well as financial statements.

In addition, the nominee has responded as required in writing to pre-hearing questions submitted by the Committee concerning the duties and responsibilities associated with being a member of the Federal Employees Retirement Thrift Fund Investment Board. Copies of the biographical information and pre-hearing responses will be placed in the record as part of this hearing and will be available upon request.

The financial statements are available for inspection by the public in the Committee office. Committee staff has reviewed all of the information. In addition, staff has examined the financial disclosure reports submitted by the Office of Government Ethics.

As Committee Chairman, I, along with the ranking member, Senator Glenn, have reviewed the FBI investigation report on the nominee, and the nominee has been interviewed by designated Committee staff members prior to this hearing.

Committee rules require that all nominees be placed under oath while testifying on matters relating to their suitability for office, including the policies and programs which the nominee will pursue if confirmed.

Tom, I will ask you to stand and raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth in the statements you make here and in the statements you have submitted to the Committee?

Mr. FINK. I do.

Chairman STEVENS. Thank you very much. Do you have a statement you would like to make for the record at this time?

TESTIMONY OF MR. FINK

Mr. FINK. No, Mr. Chairman.

Chairman STEVENS. I know that your family could not be present, and I know that you and Pat have 11 children. That would be a tough job to bring them down for your hearing today.

As I indicated earlier, the Committee submits detailed written questions to you and to all nominees. I do not repeat those questions here. The questions highlight a number of issues being considered by the thrift board. After 10 years in operation, there are a number of changes being contemplated. The main change is improving the computer and data processing capabilities. That is an area advancing quickly in the private sector, and the thrift fund cannot fall behind in providing competitive services to Federal employees.

They have also been looking into expanding the options available to employees for borrowing from this fund. Any change of that type, of course, will take legislative action, and the board is responsible for ensuring that any expanded services are efficiently provided. We will look forward to the board's review of some of the options that are being suggested.

We have standard questions under our Committee procedure that must be answered by any nominee under oath. So I ask you these questions, my good friend. Is there anything you are aware

of in your background which might present a conflict of interest with the duties of office to which you have been nominated?

Mr. FINK. No.

Chairman STEVENS. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office for which you have been nominated?

Mr. FINK. No.

Chairman STEVENS. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted Committee of Congress if you are confirmed?

Mr. FINK. Yes.

Chairman STEVENS. Those are all of the questions that I have. I understand the board has a teleconference meeting set for Monday, March 18. It will take unanimous consent to bypass the Committee vote and send the nomination directly to the floor. I do intend to ask my colleagues on this Committee for their cooperation in agreeing to such a discharge so that we can move expeditiously on your nomination. It is my hope that that will be done in time for you to participate in the next scheduled meeting.

Mr. FINK. Thank you.

Chairman STEVENS. I thank you very much for attending and wish you good luck, my friend.

Mr. FINK. Thank you, Mr. Chairman. Thank you very much.

[The biographical information follows:]

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. Name: Thomas A. Fink
2. Position to which nominated: Member of Federal Employees Retirement Thrift Board of Directors
3. Date of nomination: January 25, 1996
4. Address: 1350 W. 23rd, Anchorage, Alaska 99503, Office and Residence
5. Date and place of birth: August 26, 1928, Peoria, Illinois
6. Marital status: Patricia a. Fink (Israelson)
7. Names and ages of children: Deborah 43, Ann 41, Maureen 38, Mark 36, Michael 34, Kathryn 33, Tom 31, Matthew 30, Joshua 28, Johanna 27, and Kelly 25
8. Education:
Chillicothe High School 1942-46, Chillicothe, Illinois—Graduated.
Bradley University, Peoria, Illinois 1946-50—B.S.
University of Illinois Law School, Champaign, Illinois 1949-52—J.D.
American College of Life Underwriters 1960-63—C.L.U.
9. Employment record:
Kay, Robison, & Moody—Law firm 1952-53, Law Clerk, Anchorage, Alaska
City National Bank 1953-55, Vice President, Anchorage
Friendly Finance Co., Inc. 1955-58, Small Loan Co., Manager, Anchorage
Property & Casualty Agent: 1965-75
Life Insurance Sales: 1958-current

Under names of:

Von Giller Agency 1958-59, Agent
 Tom Fink Agency 1959-96, Owner-Agent
 Schroer Fink Agency, Inc. 1964-96, Stockholder, Officer, and Agent,
 Anchorage

9. Employment record continued:

State legislator 1967-75, State of Alaska
 Mayor of Anchorage 1988-August 1994

10. Government experience: None

11. Business relationships:

Current:

Officer—Schroer-Fink Agency, Inc.
 Partner—Fink, Schroer, Swanson, Swanson
 Life Insurance Agent—Schroer-Fink Agency, Inc.

Past:

Trustee—Alaska Pacific University
 Partner—Fink Schroer
 Partner—Schroer, Fink, Swanson

12. Memberships:

Knights of Columbus
 Pioneers of Alaska
 Chamber of Commerce—intermittently
 American Society of Chartered Life Underwriters
 National Association of Life Underwriters
 NRA

13. Political affiliations and activities:

a. Candidate:

School Board, City Council, Governor.
 Elected: State Legislature, Mayor of Anchorage

b. Just my own election committees

c. Political Contributions 1986-1995

GOP—\$481
 Governor Races—Randolph \$1,050, Coghill \$200
 Presidential Races—Bush-Quayle \$250, Buchanan \$100
 Congressional Races—D. Young, \$350, Murkowski \$250, Stevens \$100

Political Action Committees—LUPAC \$400, Wildlife Legislative Fund \$500, Alaska Black Caucus \$100, Pacific Legal Fdtn. \$250, Citizens for Indept. CEA \$400, Alaska 92 \$100

State Legislators—Barnes \$350, Moffatt \$150, Faiks \$200, Wilcox \$150, T. Miller \$200, T. Martin \$650, Uehling \$100, Zawackie \$201, Leman \$201, A. Hanley \$101, Boucher \$101, Collins \$101, Waggoner \$201, Nunnally \$101, L. Baker \$100, Choquette \$100, Hoffman \$100, Sanders \$100, M. Hanley \$100, Rokeberg \$100, R. Taylor \$100, R. Halford \$100, L. Halford \$100, R. Phillips \$100, Webb \$100, Porter \$100, Kelly \$100, Burt \$100, Mulder \$100, Kott \$200, Nicolai \$100, C. Moses \$100, Ogan \$50, Kohring \$50

Local Government—Wood \$100, L. Dineen \$200, L. Rexwinkel \$150, J. Garrigues \$100, Kerbow \$101, Schroer \$101, Sykes \$101, Bradley \$101, B. Phillips \$101, Vasquez \$100, Boucher \$100, Burke \$500, Traini \$100, Rivenbank \$100, Bell \$200, Porter \$100, Thompson \$100, Smith \$200, E. Young \$100, J. Murdy \$100, K. Myers \$200, G. Schriver \$200, J. Fleming \$200, L. Ferrel \$200, T. Petrone \$100, F. Thompson \$100, Mystrom \$200, Wuerch \$100, S. Fowler \$100, Versup \$100, T. Humphrey \$100

Summary—1986 \$2,750, 1987 \$325, 1988 \$1,773, 1989 \$250, 1990 \$250, 1991 \$1,025, 1992 \$3,375, 1993 \$1,650, 1994 \$1,035, 1995 \$1,160—Total \$13,593

14. Honors and awards: Minor recognitions

15. Published writings:

Weekly Opinion Columns intermittently—Anchorage Times 1975–94
 Alaska Star 1995-current

16. Speeches: I talk from notes which I do not keep.
17. Selection: (a) Recommended by Sen. Stevens and Sen. Dole.
 (b) Government service background, education, experience in investments through life insurance sales (some for Pension), and management of State and municipal funds as State legislator and mayor.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

If necessary, but see no conflict of interest or time.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Nothing new.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

(a) Continue to service existing life insurance clients.

(b) Continue to receive deferred compensation for past services from Mattson Investigations (owned by my son, Mike)

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

As Mayor 1988–August 7, 1994 tried to persuade Congress, Governor, State Legislature for city and State issues.

As Legislator 1967–75 tried to influence Congress on State issues.

In early 1960's lobbied for State Life Insurance Ass'n for code changes.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

There are none.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

As Mayor I had one or two complaints filed with Ethics Committee which were dismissed by Committee as unfounded (I believe FBI looked into).

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

A Real Estate partnership F.S.S.S. was foreclosed upon by FDIC

FDIC vs FSSS

Wife and I and others

U.S. District Court of Alaska #A92-719-CV (JWS)

Judgment 7/28/93

Satisfaction of Judgment 1/27/94

Amount: \$2,425,122.21

Property foreclosure

Also as Mayor of Anchorage, I was named as defendant in many suits against the municipality.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable, or unfavorable, which you feel should be considered in connection with your nomination.

Foreclosure set out in No. 3 above was result of very substantial recession in late 1980's wherein 9 banks in Alaska went under and Assessed Value of property went down 40 percent in Anchorage.

E. FINANCIAL DATA

On file in the Committee Office.

PRE-HEARING QUESTIONS FOR THOMAS A. FINK TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

I. NOMINATIONS PROCESS AND POTENTIAL CONFLICTS

1. Were any conditions, express or implied, attached to your nomination as a Member of the Federal Retirement Thrift Investment Board (FRTIB)?

No.

2. Have you made any specific commitments with respect to the basic policies and philosophy which you will follow while a Member of the Thrift Investment Board?

No.

3. To your knowledge, did persons representing interests that could be influenced by the FRTIB actively support or endorse your nomination? Is so, please explain.

No.

4. Is there any issue currently under consideration by the Thrift Board, or any which may come under consideration, from which you may have to disqualify yourself? If so, please explain.

No.

5. Do you have any interest in any corporation, partnership, association, or other entity whose interest may be affected significantly by the Board?

No.

II. ROLE AND RESPONSIBILITIES OF THE POSITION TO WHICH NOMINATED

1. What do you believe are the most important responsibilities of the position to which you are nominated and what challenges do you expect to face?

To set policies that result in the best returns at the least cost as allowed within the statute. It seems to me there are many value judgments to be made within that framework.

Also to make sure Federal participants' attitudes are known by the Board.

2. What contributions do you feel you can make to the Thrift Board?

Main contribution would be a reasoned judgment in Board decisions. I have had a certain amount of experience in handling investments of governments and pensions in State government and more so in local government.

III. ROLE OF THE THRIFT BOARD

1. How do you view the role and responsibilities of the Thrift Board?

To adopt prudent investment policies and administrative procedures within the statute and have constant overview of Executive Director.

2. The Thrift Board is an independent agency. What do you consider to be the proper relationship between the Board and (1) the President and (2) the Congress?

The Board should make decisions independently of the President or Congress as that is clearly the intent of Congress when the TSP was set up. The Board, of course, has to acknowledge that Congress and the President write the laws and have an interest in the TSP being successful.

3. On what model do you think the Board should operate—a private pension plan or a Federal agency model? On what statutory basis do you base your view of the function of the Board?

The statute makes this a Federal Agency Model pension plan. Prudence applies to both types, but the authorizing statute limits the Board more than in a private pension.

4. How do you view the current statutory division of responsibilities between the Board members, as policy-makers, and the Executive Director, the chief executive officer of the agency?

It looks as if it works well.

(a) Do you consider the Executive Director to be accountable to Board members for his actions and decisions?

Yes.

(b) Should there be oversight or reporting mechanisms available to Board members to keep them apprised of, or to allow evaluation of, actions or decisions taken by the Executive Director?

Yes.

5. Should Board members have any management responsibilities in addition to their policy-making duties?

No.

6. Do you consider a long-term planning policy for the Board to be required by statute?

No. It is implied. Prudence requires it.

7. Do you believe the current funding system is adequate? Are there any changes you would like to see made?

It appears to be adequate.

IV. THRIFT SAVINGS PLAN

1. Federal employees participating in the TSP currently have the option of investing in one or more of three investment funds: A government securities fund, a common stock fund, and a fixed income fund. The Thrift Investment Board is beginning to evaluate investment options, for example, a stock fund based on foreign stocks.

It seems clear that the Federal Government should try to maintain competitive pay and benefits relative to other employers, in order to attract and retain quality people in the career Federal service.

(a) What is your assessment of the current competitiveness of the TSP relative to other employer-sponsored retirement investment/savings plans?

It appears very competitive.

(b) What administrative and legislative modification(s), if any, do you think would benefit the TSP without significantly increasing costs to the government?

I don't know of any at this time.

2. When the FERS system was designed, the TSP portion of the FERS retirement benefits package was intended to provide a large part of the retirement incomes of those who complete Federal service careers. While active participation in the TSP among FERS employees has gradually increased in the years since its inception (to about 78.3 percent as of December 1995), a significant number of FERS employees—many of whom are newer, lower-salaried employees—are not actively participating.

(a) What do you think the FRTIB can do to increase the participation rate?

Just continue to point out the advantages to employees.

(b) Do you think there are attributes of the current TSP that actually discourage FERS employees from program participation? If so, what might be done to reduce that adverse impact?

I am unaware of any at this time.

3. Reportedly there has been under consideration a proposal as part of the effort to cut current Federal entitlement program costs, a proposal to reduce the amount of the government's contribution to the TSP accounts of FERS employees. Do you favor the implementation of such a proposal?

I believe that is for Congress to determine. Any cuts would make the plan less attractive to Federal employees.

4. Some civil service annuitants (including survivor annuitants) have expressed an interest in participating in the TSP under essentially the same conditions as do current CSRS-covered employees (i.e., that they be allowed to invest up to 5 percent of their gross civil service annuities in the TSP without any matching government contributions).

I don't know enough yet to give an adequate answer.

These annuitants point to the fact that they are already allowed to participate in the other major employee benefits programs (the Federal employee health benefits and life insurance programs) as retirees. Since the fund's administrative expenses are largely paid from earnings on participant contributions, the government's net costs for allowing their participation might not significantly increase. Recognizing that legislation would be necessary to accomplish such a change—

(a) What do you see as the pros and cons of this proposal?

Again I don't have adequate knowledge yet to give a well considered answer. The pro probably is additional benefit without any significant costs. The cons probably are the program is to be an incentive for working Federal employees and goes beyond competitive plans.

(b) Do you favor its implementation in principle?

I need to know more.

5. Currently, a Federal employee is permitted to borrow from his or her TSP account in only a very limited number of circumstances (i.e., for purchase of a primary residence, to meet education or medical expenses, or for reasons of financial hardship).

Those who favor narrow limits on borrowing argue that TSP funds are intended to provide a key part of a retiree's post-employment income and should, therefore, be accessible only on a very sparing basis prior to retirement. Those who favor expanding the current borrowing provisions argue that these funds belong not to the government but to the employees, and that these funds should therefore be made available to the employees when and as they deem appropriate.

Do you favor any changes to the current restrictions on borrowing?

Need more knowledge, but probably do not favor any change for the reason stated and since the funds are subject to tax protection until one retires.

6. The FRTIB has an agreement with the Department of Agriculture's National Finance Center (NFC), in New Orleans, Louisiana, to provide recordkeeping services for the TSP, and the NFC maintains the accounts of TSP participants. In recent years, the NFC has assumed an increasingly large and complex financial management role as more and more agencies have found it more cost-effective and expeditious to have NFC provide for their financial management needs than to operate their own financial management systems.

What evaluative and/or system safeguards do you think the FRTIB should prudently have in place to ensure that the NFC provides consistently timely and accurate financial management support for the TSP?

I believe the Board is currently going through a 3rd party review to determine what if any changes are in order. In addition to periodic reviews, I assume there is or should be input from the participating employees as to the sufficiency of the current system.

7. Under Federal law, FRTIB members (including the Chairman) except those filling the unexpired terms of departed members are appointed for 4-year terms. Because stability in the top ranks of executive agencies is seen as critical to the efficient accomplishment of agencies' missions, the expressed willingness of key presidential nominees to make and fulfill public commitments to serve most if not all of the prescribed terms of their positions is an important consideration to the Committee.

Are you prepared to offer a commitment at this time to complete a full term of office?

Yes.

V. RELATIONS WITH CONGRESS

1. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Yes.

2. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of Congress, or its duly authorized agents, if you are confirmed?

Yes.

Chairman STEVENS. I will request the staff to poll the Members to see if they will agree to the discharge of this nomination so it may be expeditiously handled on the floor. Thank you very much.

[Whereupon, at 10:19 a.m., the Committee adjourned, subject to the call of the Chair.]



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